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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,273	02/21/2002	Edward C. Carman JR.	843P010811-US (PAR)	9776
22832	7590	11/21/2006	EXAMINER	
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP One Lincoln Street BOSTON, MA 02111-2950			PHAM, HUONG Q	
			ART UNIT	PAPER NUMBER
			3772	
DATE MAILED: 11/21/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/081,273

Applicant(s)

CARMAN ET AL.

Examiner

Huong Q. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-10, 12-14, 17-20, 23-26, 28-30 and 33-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10, 12-14, 17-20, 23-26, 28-30, 33-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 40- 41 are objected to because:

As for claims 40, 41 " said second axis" lack proper antecedent basis.

Also, there is no first axis recited. Therefore, the recited " second axis " and " third axis" render the scope of the claims unclear. Also, there is no antecedent basis for " the device" .

Specification

The amendment filed on 9/18/2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The phrases " pistol-grip" , and " substantially complete revolution..." .

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 18, 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

"pistol grip" , " substantially complete evolution" lack proper antecedent basis in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 18, 33, 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As for claims 1, 18, 33, the phrase " or the like" render the scope of the claim indefinite. It's unclear what structure are included in the phrase " the like". Also, it is unclear what structure is the "pistol -grip".

As for claim 37, the meaning of the phrase "a pitch decreases from forward to rearward" is unclear .On page 8, the specification defines the pitch of the helix 5 as " the distance between adjacent turns of the helix measured along a line parallel to its axis 11, decreases, as the helix extends rearward to end 9".

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However, the distance between turns is arbitrary. The distance between turns depends on how one would decide how or where to define or begin a turn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1- 3, 6- 10, 12-14, 17- 20, 23- 26, 28-30, 33- 41, are rejected under 35 U.S.C. 102(b) as being anticipated by Stephens (5,331,989).

As for claim 1, Stephens shows every claimed feature of claim 1 including a handle 17 (figure 5) capable for being used as one handed ergonomic manipulation of a tool "or the like", comprising a forward and rearward ends, an attachment post 11 (figure 5) at the forward end of the handle, the post having a first longitudinal axis, a connector at the forward end of the post, constructed to be able to releasably attach a tool 30 "or the like" (figure 8. Note that member 30 is capable of being used as a tool "or the like") to the handle; a grip 17 fixed to the attachment post 11 , the grip having a second longitudinal axis fixed to the attachment post 11 and extending rearward therefrom, with the second axis extending transverse to said first axis, a seat portion 26, 27 fixed to the grip and extending rearward therefrom to underlie the bottom of the user's wrist when the

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grip is grasped without restraining side to side flexure of the wrist (note in figure 5 that a user is able to flex the wrist from side to side up to certain degree when the grip 17 is grasped) ; a band like-elongate brace 63, 65 (note figures 1, 2 and 5) intergral with and extending from one side of the seat portion 26, 27 , the brace extending in a continuous helix (note figures 2, 5 and 4) that wraps progressively and, in cooperation with the seat portion, 26, 27 defines an open space to accommodate and surround the lower arm of the user, from the wrist to the rearward end of the device.

Note that the attachment post 11 is constructed with a coupling at means (figure 14) at forward end which is capable for attachment to a tool or the like (the foot member 14 is capable of being used as a tool). Note that Figures 4,5 show the brace 63, 65 with a top edge higher than a lower edge, and therefore the brace 65 is constructed in the form of a helix as recited. One tracing the top edge of the brace 63, 65 from the lower edge in figures 4, 5 would follow a helical path to the top edge of brace 63, 65. This would broadly comprehend in the form of a helix.

As for claim 2, to any extent that applicant open space is conical, so is the open space circumscribed from the heel engaging portion 27 up to the brace 65 of Stephen (note figure 5, from point 27 to points 63, 73. Note that it appears that applicant's conical open space shown in figure 1a includes seat portion 4) . As for claim 3, note that the attachment post 11, the grip 17, the seat 27, and the brace 63, 65 are integrally formed . As for claim 6, note that the first and second axes intersect in an acute angle. As for claim 7, note that the second axis and the

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plane of the seat 27 intersect at an angle which is supplementary to the acute angle.

As for claim 8, note in figures 2, 4 that the helix angle increases from forward to rearward. As for claim 9, note in figures 2, 4 that the radius of curvature of the helix increases from forward to rearward 9 . As for claim 10, note that the brace 63, 65 has a substantially straight portion at its distal end (note in figure 2 that a portion of the brace 63, 65 has substantially parallel proximal and distal edges . This portion of brace 63, 65 is constructed with a "substantially straight portion". As for claims 12 -14, note that the brace 63, 65 is oriented with respect to the other elements of the device, and when a person with a small forearm (or a child) uses the brace, the wrist is capable of being free to flex as recited. As for claim 17, note that a portion of the surface of the seat 26, 27 is "substantially" flat from forward to rearward (note figure 2 attached to the previous Office Action. Note that claim 17 only requires that the seat is "substantially flat from forward to rearward". Note figure 2 attached to the previous Office Action that the drawn narrow portion of the seat 26, 27 is "substantially flat from forward to rearward". Note that to any extent that applicant 's seat portion 4 is flat (as shown in applicant's figure 1a), so is the seat portion (note attached drawing in previous Office action) of Stephens.

As for claims 18- 20, 23- 26, 28-30, 33- 41 note the comments relative to the above claims.

Response to Arguments

Applicant's arguments filed on 9/18/2006 have been fully considered but they are not persuasive. Note the comments relative to the claims above.

In response to applicant's argument that "there is nothing helical about the shape of the upper fore-arm engaging portion 65 of the elongated cuff", note that the examiner relies on the teaching from the whole disclosure of the patent to Stephens, which includes the specification, the drawings, and the claims. Note that the reference does not have to exactly mention the word "helix" or "spiral", figures 2-5 clearly teach this helix (note attached drawings in the previous Office action). Note in figures 2, 3, 5, 4, of Stephens that the helix of Stephens starts from references # 55, 61, 57 up to references # 65, 73.

In response to applicant's argument that Stephen does not disclose a seat portion to underlie the bottom of the user's wrist without restraining side to side flexure of the wrist.... Note in figure 1 that, when a person (or a child) with a small forearm or wrist uses the device, the wrist is capable of flexing up and down, and from the left to the right to certain degree. Moreover, applicant's seat portion isn't flat either. It has a raised contour (note applicant's figure 1a). It is not clear how applicant's flat and raised contour is different from Stephens flat and raised contour. The flat seat portion of Stephens extends along a plane defined by the line A-A as noted in figure 5 of the drawings attached to the previous Office action..

In response to applicant's argument that Stephens does not disclose an ergonomic handle detachably connectable to a tool or the like, note in figure 14, the foot member 14 is capable of being used as a tool "or the like", which is

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capable of being releasably secured to post 11 by means of a connector (the socket 45 has grooves , and the end of post 11 would have structure capable to cooperate and releasably connect with the grooves of socket 45 forming the recited connector means).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huong Q. Pham whose telephone number is (571) 272-4980. The examiner can normally be reached on 8:45 AM - 5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272 - 4940.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

November 16, 2006

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a long horizontal flourish extending to the right.

MICHAEL A. BROWN
PRIMARY EXAMINER